No. 10-1543

In the Supreme Court of the United States

ERIC H. HOLDER, JR., ATTORNEY GENERAL,
PETITIONER

v.

DAMIEN ANTONIO SAWYERS

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOINT APPENDIX

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PETITION FOR A WRIT OF CERTIORARI FILED: JUNE 23, 2011
CERTIORARI GRANTED: SEPT. 27, 2011

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 08-70181

DAMIEN ANTONIO SAWYERS, A.K.A. DAMIEN SAWYERS,
PETITIONER

v.

MICHAEL B. MUKASEY, ATTORNEY GENERAL,
RESPONDENT

DOCKET ENTRIES

DATE	DOCKET NUMBER	PROCEEDINGS
1/15/08	1	FILED * * * FAXED * * * INS Petition for REV and Motion for Stay. Docketed Cause and Entered Appearance of Counsel. Pursuant to G.O. 6.4(c)(1)(3) A TEMPORARY STAY OF REMOVAL IS IN EFFECT pending further order. The schedule is set as follows: Pursuant to G.O. 6.4(c)(1)(3), the schedule is set as follows: Cert. Admin. Record due 3/11/08 Response to motion for stay due 4/8/08 for

DATE	DOCKET NUMBER	PROCEEDINGS
		Michael B. Mukasey (MOATT) [08-70181] (GN)
1/15/08	2	Filed Petitioner Damien Antonio Sawyers's * * * FAXED * * * * motion to stay deportation (see schedule above) [08-70181] served on 1/15/08 [6400381] (MOATT) [08-70181] (GN)
3/17/08	3	Electronic Certified Administrative Record Filed. Number of Disks (CD-ROMs or DVDs): 1. (KS)
4/14/08	4	Filed appearance notice of Attorney(s) Arthur L. Rabin for party(s) Respondent Michael B. Mukasey, in case 08-70181. Served on 04/11/2008. (JE)
4/14/08	5	Filed Respondent Michael B. Mukasey response opposing appellant motion to stay removal. Served on 04/11/2008. (JE)

DATE	DOCKET NUMBER	PROCEEDINGS
6/2/08	6	Filed order MOATT: (HS) docket fee due; within 21 days after the date of this order, petitioner shall pay to this court the $450.00 filing fee for this petition for review. Failure to pay the fee shall result in the automatic dismissal of the petition for review by the Clerk for failure to prosecute. See 9th Cir. R. 42-1. All pending motions are held in abeyance pending further order of the court. (DAF)
6/11/08	7	Received notification from Petitioner of payment of docket fee. Amount Paid: USD 450. Date paid: 06/11/2008. (MT)
8/13/08	8	Filed order (WILLIAM C. CANBY and EDWARD LEAVY): The motion for a stay of removal is granted. The certified administrative record has been filed. The opening brief is due November 13, 2008; the answering brief is due January 12,

DATE	DOCKET NUMBER	PROCEEDINGS
		2009; and the optional reply brief is due within 14 days after service of the answering brief. (AF)
11/12/08	9	14 day oral extension by phone of time to file Petitioner Damien Antonio Sawyers brief. Petitioner brief due 11/28/2008 for Damien Antonio Sawyers. Respondent brief due 01/27/2009 for Michael B. Mukasey, Attorney General. The optional reply brief is due 14 days after service of the respondent brief. (TH)
11/28/08	10	Received original and 15 copies of Petitioner Damien Antonio Sawyers brief (Informal: No) 8 pages. Served on 11/25/2008. Deficiency: Footnotes font too small. Notified counsel. (LA)
1/27/09	11	Filed (ECF) notice of appearance of Kathryn Marie McKinney for Respondent Michael B. Mukasey. Date

DATE	DOCKET NUMBER	PROCEEDINGS
		of service: 01/27/2009. [6785706] (KM)
1/27/09	12	Added attorney Kathryn McKinney for Michael B. Mukasey, in case 08-70181. (CW)
1/27/09	13	Terminated Arthur Leonid Rabin for Michael B. Mukasey in 08-70181 (CW)
1/27/09	14	Submitted (ECF) Answering brief for review. Submitted by Respondent Michael B. Mukasey. Date of service: 01/27/2009. [6786346] (O)
1/29/09	15	Order filed (Deputy Clerk: KKW) Dismissing case for failure to prosecute (Cir. Rule 42-1) Pursuant to Ninth Rule 42-1, this appeal is dismissed for failure to file opening brief.; This order served on the district court shall act as and for the mandate of this court.. (KKW)
2/3/09	16	Filed (ECF) Petitioner Damien Antonio Sawyers motion for reconsideration of

DATE	DOCKET NUMBER	PROCEEDINGS
		dispositive Clerk Order of 01/29/2009. Date of service: 02/03/2009. [6794826] (HFL)
2/5/09	17	Deleted Incorrect Docket Entry. (EL)
2/12/09	18	KB Filed order (Appellate Commissioner) The petitioner's motion to reconsider the January 29, 2009 order is construed as a motion to reinstate. So construed, the motion is granted. The previously granted temporary stay of removal is also reinstated. The opening brief received on November 28, 2008 shall be filed. The petitioner is reminded that pursuant to Ninth Circuit Rule 32(a)(5)(A) the typeface of a brief and the footnotes of the brief must be 14-point. The answering brief submitted on January 27, 2009 shall be filed. The optional reply brief is due 14 days after the date of this order. The answering brief submitted on January 27, 2009 shall be

DATE	DOCKET NUMBER	PROCEEDINGS
		filed. The optional reply brief is due 14 days after the date of this order. (Pro Mo) (LRB)
2/12/09	19	Filed original and 15 copies of Petitioner Damien Antonio Sawyers (Informal: No) opening brief of 08 pages. Served on 11/25/2008. (GLS)
2/12/09		Filed Answering Brief filed by Michael B. Mukasey. Within 5 working days of the filing of this order, filer is ordered to file 10 copies of the brief in paper format, with a Red cover, accompanied by certification that the brief is identical to the version submitted electronically. (GLS)
2/20/09	20	Received 10 paper copies of Answering brief filed by Michael B. Mukasey. One copy to Case Files, the remainder to Records. (GLS)

DATE	DOCKET NUMBER	PROCEEDINGS
6/20/09	21	Calendar check performed. [6963424] (MW)
11/2/09	22	Filed (ECF) Respondent Michael B. Mukasey Motion to stay proceedings. Date of service: 11/02/2009. [7115232] (KM)
11/25/09	23	Notice of Oral Argument on JANUARY 15, 2010 Calendar. Please return ACKNOWLEDGMENT OF HEARING NOTICE form to: SAN FRANCISCO Office. Please open attached documents to view details about your case. [7143656] (AM)
11/30/09	24	Filed clerk order (Deputy Clerk: KKW): On November 2, 2009, the government filed an unopposed motion to hold proceedings in abeyance pending the outcome of the petition for rehearing in Mercado-Zazueta v. Holder, 580 F.3d 1102 (9th Cir. 2009). The motion is GRANTED. This case is re-

DATE	DOCKET NUMBER	PROCEEDINGS
		moved from the oral argument calendar for January 15, 2010. When the petition for rehearing in Mercado-Zazueta is resolved, the calendar clerk shall schedule this case to be heard by the next merits panel. [7146214] (KKW)
6/30/10	26	Filed (ECF) Respondent Michael B. Mukasey citation of supplemental authorities. Date of service: 06/30/2010. [7389928] (KM)
8/11/10	27	Notice of Oral Argument on OCTOBER 8 Calendar. Please return ACKNOWLEDGMENT OF HEARING NOTICE form to: SAN FRANCISCO Office. Attention: The Notice of Docket Activity may not list your case number. Please open attached documents to view details about your case. [7436532] (AM)

DATE	DOCKET NUMBER	PROCEEDINGS
8/26/10	28	Filed clerk order (Deputy Clerk: AF): This case shall be submitted on the briefs and record, without oral argument, on October 8, 2010, in San Francisco, California, pursuant to Federal Rule of Appellate Procedure 34(a)(2). [7453522] (AF)
10/8/10	29	SUBMITTED ON THE BRIEFS TO ROBERT R. BEEZER, SUSAN P. GRABER and CORMAC J. CARNEY. [7501867] (TB)
10/14/10	30	FILED MEMORANDUM DISPOSITION (ROBERT R. BEEZER, SUSAN P. GRABER and CORMAC J. CARNEY) GRANTED; REMANDED. FILED AND ENTERED JUDGMENT. [7507767] (DD)
10/25/10	31	Filed (ECF) notice of appearance of Carol Federighi for Respondent Michael B. Mukasey. Date of service: 10/25/2010. [7521513] (CF)

DATE	DOCKET NUMBER	PROCEEDINGS
10/25/10	32	Added attorney Carol Federighi for Michael B. Mukasey, in case 08-70181. [7521716] (RR)
10/28/10	33	Filed (ECF) Respondent Michael B. Mukasey Unopposed Motion to extend time to file petition for rehearing until 12/20/2010. Date of service: 10/28/2010. [7525996] (CF)
10/28/10	34	Filed order (SUSAN P. GRABER) Respondent's unopposed motion for an extension of time up to and including December 20, 2010, within which to file a petition for rehearing is GRANTED. [7526846] (KKW)
12/14/10	35	Filed (ECF) Respondent Michael B. Mukasey Unopposed Motion to extend time to file petition for rehearing until 01/03/2011. Date of service: 12/14/2010. [7580095] (CF)

DATE	DOCKET NUMBER	PROCEEDINGS
12/17/10	36	Filed order (SUSAN P. GRABER): Respondent's second unopposed motion for an extension of time up to and including January 3, 2011, within which to file a petition for rehearing is GRANTED. [7584467] (AF)
1/3/11	37	Filed (ECF) Respondent Michael B. Mukasey petition for rehearing en banc (from 10/14/2010 memorandum). Date of service: 01/03/2011. [7597636] (CF)
1/5/11	38	Filed order (ROBERT R. BEEZER, SUSAN P. GRABER and CORMAC J. CARNEY) Petitioner is directed to file a response to Respondent's petition for rehearing en banc filed on January 3, 2011. The response shall not exceed 15 pages or 4200 words and shall be filed within 21 days of the filed date of this order. Parties who are registered for ECF must file the response electronically without

DATE	DOCKET NUMBER	PROCEEDINGS
		submission of paper copies. Parties who are not registered ECF filers must file the original response plus 50 paper copies. [7601292] (KKW)
1/26/11	39	Filed (ECF) Petitioner Damien Antonio Sawyers response to ,to set response by any party to anything, ,for rehearing by en banc only (all active, any interested senior judges). Date of service: 01/26/2011. [7626227]. (HFL)
2/1/11	40	Filed order (ROBERT R. BEEZER, SUSAN P. GRABER and CORMAC J. CARNEY): Judge Graber has voted to deny Respondent's petition for rehearing en banc, and Judges Beezer and Carney have so recommended. The full court has been advised of the petition for rehearing en banc, and no judge of the court has requested a vote on it. The petition for re-

DATE	DOCKET NUMBER	PROCEEDINGS
		hearing en banc is DENIED. [7632003] (AF)
2/10/11	41	MANDATE ISSUED. (RRB, SPG and CJC) [7642924] (LC)
4/22/11	42	Received letter from the Supreme Court dated 04/20/2011 re: the application for an ext of time to file a petition for a writ of certiorari has been granted to and including 6/1/2011. [7731337] (LC)
5/27/11	43	Received letter from the Supreme Court dated 05/25/2011 re: the application for a further extension of time to file a petition for writ of certiorari has been extended to and including 6/23/2011. [7767396] (LC)
6/24/11	44	Received notice from the Supreme Court: petition for certiorari filed on 06/23/2011. Supreme Court Number 10-1543. [7797465] (LC)

DATE	DOCKET NUMBER	PROCEEDINGS
9/28/11	45	Received notice from the Supreme Court. Petition for certiorari GRANTED on 09/27/2011. Supreme Court Number 10-1543. [7908555] (LC)

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
Eloy, Arizona

File No.: A 44 852 478

MATTER OF DAMIEN ANTONIO SAWYERS,
RESPONDENT

Date: Dec. 19, 2006

TRANSCRIPT OF HEARING

Before: JOHN W. DAVIS, Immigration Judge

[50]

JUDGE FOR THE RECORD

This is Immigration Judge John W. Davis conducting continued—excuse me, conducting initial removal proceedings in Eloy, Arizona, on the 19th of December 2006, in the matter of Damien Antonio Sawyers, A 44 852 478. This afternoon's hearing is an individual hearing. The respondent is present in Court. He is currently detained in the custody of the Department of Homeland Security. He is represented this afternoon by Mr. Hugo Larios (phonetic sp.) of the Law Offices of Hugo Larios of Tempe, Arizona. The Department of Homeland security is represented by its Assistant Chief Coun-

sel, Mr. Matthew Kaufman (phonetic sp.). The Court's Officer is Mr. Valenzuela.

JUDGE TO MR. LARIOS

Prior to proceedings, Mr. Larios, let me ask you this. Is—have you advised your client of the nature and purpose of these proceedings, the rights available to him during these proceedings?

MR. LARIOS TO JUDGE

Yes, Your Honor.

JUDGE TO MR. LARIOS

And does he admit proper service of the Notice to Appear and that he's the person named in, in that document?

MR. LARIOS TO JUDGE

Yes, Your Honor.

JUDGE TO MR. LARIOS

[51]

Very well.

JUDGE FOR THE RECORD

I'm going to mark and admit that document as Exhibit 1. This hearing was originally scheduled for the 28th of November.

JUDGE TO MR. LARIOS

And, Mr. Larios, you requested a continuance, which the Court granted, and it was reset till today. I'm going to, I'm going to mark that request for a continuance and

the granting of it as Exhibit 2. Are you ready for pleadings, Mr. Larios?

MR. LARIOS TO JUDGE

Yes, Your Honor.

JUDGE TO MR. LARIOS

Very well. As I recall, reading your request for a continuance, you're denying factual allegation 1, is that correct?

MR. LARIOS TO JUDGE

Yes, Your Honor.

JUDGE TO MR. LARIOS

Very well. Do you have any evidence to provide to the Court or do you want to do it all at a subsequent hearing?

MR. LARIOS TO JUDGE

I have some evidence, Your Honor. May I approach?

JUDGE TO MR. LARIOS

Yes. Thank you.

MR. LARIOS TO JUDGE

[52]

Your Honor, this will be a derivative citizenship. His mother naturalized prior to his 18th birthday. He was born in 1980 and the mother was naturalized in '96.

JUDGE TO MR. LARIOS

What's the status of the father?

MR. LARIOS TO JUDGE

The status is also a U.S. citizen.

JUDGE TO MR. LARIOS

Do you have any documents showing that?

MR. LARIOS TO JUDGE

I do not.

MR. SAWYERS TO JUDGE

Yes, I do.

JUDGE TO MR. SAWYERS

Well, you need to provide those documents to Mr. Larios. And you provide those documents to Mr. Larios. He can provide them to Mr. Kaufman or whichever Government Attorney winds up handling your case and the Government will likely terminate if that's the case.

JUDGE TO MR. LARIOS

But what I'm going to do now is set it to my next available, Mr. Larios, which is going to be 10:00 on the 5th of February, if you're available.

MR. LARIOS TO JUDGE

Yes, Your Honor. And this is solely on the citizenship [53] issue?

JUDGE TO MR. LARIOS

Yes. Well, at that time, I'll take, I'll take a look at the—well, he's got him charged today with felon. It doesn't appear as though he will be.

MR. LARIOS TO JUDGE

Yes, so we would deny four and contest the aggravated felony charge, Your Honor.

JUDGE TO MR. LARIOS

But, given that that's not the case, he would be eligible—

MR. LARIOS TO JUDGE

For cancellation of removal, 42-A.

JUDGE TO MR. LARIOS

—yes, 10 years. So, he's be eligible for cancellation. So if you want to have the application at that time. I mean, he sounds rather confident that his father is going to provide him a birth certificate. So what I'm going to do, is I'm going to set it for 10:00 on the 5th, still, that's my first available. That will be for a prove-up. And what I will do is, if he provides—if Mr. Sawyers provides you the documentation, Mr. Larios, and you provide it to Mr. Kaufman or whomever—and it substantiates what Mr. Sawyers is claiming, then they'll allow you to terminate before we get back into Court.

* * * * *

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
Eloy, Arizona

File No.: A 44 852 478

MATTER OF DAMIEN ANTONIO SAWYERS,
RESPONDENT

Date: Mar. 9, 2007

TRANSCRIPT OF HEARING

Before: JOHN W. DAVIS, Immigration Judge

[63]

JUDGE FOR THE RECORD

This is Immigration Judge John W. Davis conducting continued removal proceedings in Eloy, Arizona on the 9th of March, 2007, in the matter of Damien Antonio Sawyers, A 44 852 478. This morning's hearing is an individual hearing. The respondent is represented by his—actually, this is an individual hearing, and it has been set over until this morning for a prove-up on the respondent's claim to citizenship. The respondent is present in Court. He is currently detained in the custody of the Department of Homeland Security. He is represented this morning by Mr. Hugo Larios of the

Law Offices of Hugo Larios of Tempe, Arizona. The Department of Homeland Security is represented by its Assistant Chief Counsel, Mr. Alec Gizelik (phonetic sp.). The Court's Officer this morning is Officer Valenzuela. All right. At, at a prior hearing, the Court marked and admitted as Exhibit 1 the Notice to Appear. The respondent denied factual allegation 1, admitted factual allegation 2, admitted factual allegation 3, denied factual allegation 4, denied the charges of removability.

JUDGE TO MR. LARIOS

Is that correct, Mr. Larios?

MR. LARIOS TO JUDGE

Your Honor, I—

JUDGE TO MR. LARIOS

Or did we not enter pleadings to two and three? I know I [64] denied—I entered a denial to one and four. Did he admit two and three or are those in abeyance to this point?

MR. LARIOS TO JUDGE

No, no, two and three are admitted, Your Honor.

JUDGE TO MR. LARIOS

Very well.

JUDGE FOR THE RECORD

And there are two charges of removability. The first under 237(a)(2)(A)(iii), which is a aggravated felony under Section 101(a)(43)(B), which the respondent denied, as well as 237(a)(2)(B)(i), which the respondent also denied. And the matter was set over until this morning. The parties were also given leave to brief, particularly

the citizenship issue and the Court has received various documents from the parties. We will look at those at this time. First, the Court received from respondent through counsel a Motion to Terminate. I'm going to mark and admit that as Exhibit 2.

JUDGE TO MR. GIZELIK

Mr. Gizelik, did the Department receive that?

MR. GIZELIK TO JUDGE

We did, Your Honor.

JUDGE TO MR. GIZELIK

Very well.

JUDGE FOR THE RECORD

Assuming (indiscernible) actually, what I'm going to is [65] take it a little out of order.

JUDGE TO MR. LARIOS

On the 26th, Mr. Larios, the Court received the Department's opposition to the Motion to Terminate. Did you receive that?

MR. LARIOS TO JUDGE

Yes, Your Honor.

JUDGE FOR THE RECORD

I'm going to mark that as Exhibit 3.

JUDGE TO MR. LARIOS

And the Court also received documents on that date, did you receive those?

MR. LARIOS TO JUDGE

The I-213 conviction and statute?

JUDGE TO MR. LARIOS

Yes.

MR. LARIOS TO JUDGE

Yes, Your Honor.

JUDGE FOR THE RECORD

I'll mark and admit those as Exhibit 4.

JUDGE TO MR. LARIOS

Any objection to those documents?

MR. LARIOS TO JUDGE

No, Your Honor.

JUDGE TO MR. LARIOS

[66]

Very well.

MR. LARIOS TO JUDGE

Your Honor, I—when I reviewed the file, the Court's file, am I mistaken that the Government withdrew the aggravated felony charge? Do you have any notes on that?

JUDGE TO MR. LARIOS

I do not.

MR. GIZELIK TO JUDGE

Your Honor, at this point, we would withdraw it, because the statute—the conviction would not support an illicit trafficking charge, and there's a—

JUDGE TO MR. GIZELIK

That's the possession of a controlled substance, fourth degree. Yes. It doesn't look like an aggravated felony to me, but I could be mistaken.

JUDGE TO MR. LARIOS

So, if Mr. Gizelik wishes to withdraw that, I will allow him to withdraw that at this point.

MR. GIZELIK TO JUDGE

Your Honor, I believe when the NTA was drafted, it might have been an aggravated felony under New York, under the Second Circuit. I believe it was drafted in October, prior to the *Lopez* decisions requiring a trafficking element. But nevertheless, we would withdraw it.

JUDGE TO MR. GIZELIK

[67]

All right.

JUDGE TO MR. SAWYERS

Q. That means this is all—that's good news for you, Mr., Mr. Sawyers, because that makes you eligible for a type of relief if I find that you're not a citizen and I find that you've been convicted of, of that criminal offense.

JUDGE FOR THE RECORD

All right. The Court will briefly entertain argument from the parties, if the parties so choose. Otherwise, the Court is prepared to enter its rulings.

JUDGE TO MR. LARIOS

Anything further, Mr. Larios?

MR. LARIOS TO JUDGE

Your Honor, basically we rest on the, on the brief submitted, Your Honor. Basically, the respondent's position that he's a U.S. citizen is that at the time that he was born his parents were not married and therefore he is an illegitimate child, and therefore he derived the citizenship from his mother. Now, the respondent does concede, Your Honor, that subsequent to that the respondent's parents did become married.

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT

File No.: A 44 852 478

MATTER OF DAMIEN ANTONIO SAWYERS,
RESPONDENT

Date: Sept. 20, 2007

TRANSCRIPT OF HEARING

Before: JOHN W. DAVIS, Immigration Judge

* * * * *

[102]

* * * * *

JUDGE TO MR. SAWYERS

Q. Most everybody in the family but you is a citizen. Is that right?

A. Basically. Everybody.

Q. You must be the black sheep, huh?

A. No, man.

Q. When did your parents become citizens?

A. My moms became a citizen in '95, '96.

Q. How old were you at the time?

A. Fifteen, sixteen.

Q. When did your father become a citizen?

A. 2002.

Q. Oh, so you were—how old were you at that time?

A. Twenty-two.

Q. Were your parents married that entire time?

A. They got a divorce in 2002.

Q. When did you turn, when did you turn 18?

A. They were still together.

Q. In what, what year?

MR. LARIOS TO JUDGE

[103]

In '98. March 1, '98, he was born March 1st.

JUDGE TO MR. LARIOS

Oh, he's not going to—

JUDGE TO MR. SAWYERS

Q. Your father was still a lawful permanent resident at that time. I was trying to see if you might have derived citizenship, sir, and apparently you did not.

A. Right.

Q. So, all right.

JUDGE FOR THE RECORD

I'm going to strike for identification from nine, which is the sentencing order on the 2000 conviction, and then 9-A is the statute as to the conviction documents, to show that the respondent was—go to the next tape.

(TAPE 2, marked 3)

JUDGE FOR THE RECORD

This is tape two on the 20th of September, tape three overall, in the matter of Damien Antonio Sawyers, A 44 852 478. The Court was talking about Exhibits 9 and 9-A. Nine are the conviction documents. Nine is the—includes the provision of law that the respondent was sentenced. In the interim, each of the parties has submitted briefs to the Court. I will mark the Government's, which I received on the 12th of September, as Exhibit 10.

* * * * *

SUPERIOR COURT
OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

CASE NUMBER: 0202005758

STATE OF DELEWARE

v.

DAMIEN SAWYER

ALIAS: NO ALIASES

DOB: 03/01/1980
SBI: 00477127
Criminial Action Number: IN02-02-1641
Maint Dwelling (F)

[EXHIBIT # 9]

[Filed: Aug. 17, 2007]

SENTENCING ORDER

Before: JOHN W. DAVIS, Immigration Judge

NOW THIS 9TH DAY OF AUGUST, 2002, IT IS THE ORDER OF THE COURT THAT:

The defendant is adjudged guilty of the offense(s) charged. The defendant is to pay the costs of prosecution and all statutory surcharges.

AS TO IN02-02-1641- : TIS
MAINT DWELLING

The defendant is to pay a fine in the amount of $750.00 plus all surcharges and fees (see attachment).

Effective August 9, 2002 the defendant is sentenced as follows:

- The defendant is placed in the custody of the Department of Correction for 11 month(s) at supervision level 5 with credit for 7 day(s) previously served

- Suspended for 18 month(s) at supervision level 3

- Suspended after serving 6 month(s) at supervision level 3

- For 12 month(s) supervision level 2

SPECIAL CONDITIONS BY ORDER

The Defendant is to pay all financial obligations pursuant to a schedule established by probation officer.

Defendant shall be evaluated for substance abuse and follow recommendation for treatment, counseling and screening.

Forfeit weapon

NOTES

The defendant's probation may be transferred to New York.

/s/ JOHN E. BABIARZ JR.
JUDGE JOHN E. BABIARZ JR.

FINANCIAL SUMMARY

STATE OF DELAWARE
VS.
DAMIEN SAWYER
DOB: 03/01/1980
SBI: 00477127

CASE NUMBER:
0202005758

SENTENCE CONTINUED:

TOTAL DRUG DIVERSION FEE ORDERED	
TOTAL CIVIL PENALTY ORDERED	
TOTAL DRUG REHAB. TREAT. ED. ORDERED	112.50
TOTAL EXTRADITION ORDERED	
TOTAL FINE AMOUNT ORDERED	750.00
FORENSIC FINE ORDERED	
RESTITUTION ORDERED	
SHERIFF, NCCO ORDERED	
SHERIFF, KENT ORDERED	
SHERIFF, SUSSEX ORDERED	
PUBLIC DEF, FEE ORDERED	
PROSECUTION FEE ORDERED	100.00

VICTIM'S COM ORDERED	135.00
VIDEOPHONE FEE ORDERED	1.00
TOTAL	1,098.50

SURCHARGES

CRIM ACTION #	DESCRIPTION	AMOUNT
IN02-02-1641	DRTE	112.50
IN02-02-1641	VCF	135.00

SUPERIOR COURT
OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELEWARE

v.

BONITA HARRIS I.D. #0202005696
SEAN JORDAN I.D. #0202005752
DAMIAN SAWYER I.D. #0202005758[-2]
VERNETT SHAW A.K.A. RICHARD SHAW I.D.
#0202005765

INDICTMENT BY THE GRAND JURY

[Filed: Apr. 8, 2001]

The Grand Jury of New Castle County charges **BONITA HARRIS, SEAN JORDAN, DAMIEN SAWYER, AND VERNETT SHAW a.k.a. RICHARD SHAW** with the following offenses;

COUNT I. A FELONY

#N [02-02-1415]

TRAFFICKING IN COCAINE in violation of Title 16, Section 4753A(a)(2)(a) of the Delaware Code of 1974, as amended.

SEAN JORDAN, on or about the 7th day of February, 2002, in the County of New Castle, State of Delaware, did knowingly possess more than 5 grams but less

than 50 grams of a mixture containing Cocaine, a Narcotic Schedule II Controlled Substance as classified under 16 Del. C. Section 4716(b)(4).

COUNT II. A FELONY

#N [02-02-1416]

POSSESSION WITH INTENT TO DELIVER A NARCOTIC SCHEDULE II CONTROLLED SUBSTANCE in violation of Title 16, Section 4751 of the Delaware Code of 1974, as amended.

SEAN JORDAN, on or about the 7th day of February, 2002 in the County of New Castle, State of Delaware, did knowingly and unlawfully possess Cocaine, a Narcotic Schedule II Controlled Substance as classified under 16 Del. C. Section 4716(b)(4), with the intent to deliver same.

COUNT III. A FELONY

#N [02-02-1638]

TRAFFICKING IN COCAINE in violation of Title 16, Section 4753A(a)(2)(a) of the Delaware Code of 1974, as amended.

DAMIAN SAWYER, on or about the 7th day of February, 2002, in the County of New Castle, state at Delaware, die knowingly possess more than 5 grams but less than 50 grams of a mixture containing Cocaine, a Narcotic Schedule II Controlled Substance as classified under 16 Del. C. Section 47I6(b)(4).

COUNT IV. A FELONY

#N [02-02 .340]

POSSESSION WITH INTENT TO DELIVER A NARCOTIC SCHEDULE II CONTROLLED SUBSTANCE in violation of Title 16, Section 4751 of the Delaware Code of 1974) as amended.

DAMIAN SAWYER, on or about the 7th day of February, 2002 in the County of New Castle, Stale of Delaware, did knowingly and unlawfully possess Cocaine, a Narcotic Schedule II Controlled Substance as classified under 16 Del. C. Section 4716(b)(4), with the intent to deliver same.

COUNT V. A FELONY

#N [02-02-1443]

#N [02-02-1467]

#N [02-02-2270]

#N [02-02-1473]

POSSESSION WITH INTENT TO DELIVER A NON-NARCOTIC SCHEDULE I CONTROLLED SUBSTANCE in violation of Title 16, Section 4752 of the Delaware Code of 1974, as amended.

BONITA HARRIS, SEAN JORDAN, DAMIAN SAWYER AND VERNETT SHAW a.k.a. RICHARD SHAW, on or about the 7th day of February, 2002, in the County of New Castle, State of Delaware, did knowingly and unlawfully possess Marijuana, a Non-Narcotic Schedule I Controlled Substance as classified under 16 Del. C. Section 4714(d)(19), with the intent to deliver same.

COUNT VI. A FELONY

#N [02-02-1444]

#N [02-02-1418]

#N [02-02-1641]

#N [02-02-1474]

MAINTAINING A DWELLING FOR KEEPING CONTROLLED SUBSTANCES in violation of Title 16, Section 4755(a)(5) of the Delaware Code of 1974, as amended.

BONITA HARRIS, SEAN JORDAN, DAMIAN SAWYER, AND VERNETT SHAW a.k.a. RICHARD SHAW, on or about the 7th day of February, 2002, in the County of New Castle, State of Delaware, did knowingly keep a dwelling at [address] which is used for keeping controlled substances in violation of Chapter 47, Title 16 of the Delaware Code of 1974, as amended, as set forth in Counts I and/or II and/or III and/or IV and/or V of this Indictment.

COUNT VII. A FELONY

#N [02-02-1445]

#N [02-02-1419]

#N [02-02-1642]

#N [02-02-1475]

CONSPIRACY SECOND DEGREE in violation of Title 11, Section 512 of the Delaware Code of 1974, as amended.

BONITA HARRIS, SEAN JORDAN, DAMIAN SAWYER, AND VERNETT SHAW a.k.a. RICHARD

SHAW, on or about the 7th day of February, 2002, in the County of New Castle, State of Delaware, when intending to promote the commission of a Felony, did agree with each other to engage in conduct constituting the felony of **Possession With Intent to Deliver Marijuana and/or Maintaining a Vehicle for Keeping Controlled Substances** and did commit an overt act in furtherance of said conspiracy, by committing same as set forth in Counts V and/or VI of this Indictment, incorporated herein by reference.

COUNT VIII. A MISDEMEANOR

#N [02-02-2269]

#N [02-02-1420]

#N [02-02-2271]

#N [02-02-2272]

POSSESSION OF DRUG PARAPHERNALIA in violation of Title 16, Section 4771 of the Delaware Code of 1974, as amended.

BONITA HARRIS, SEAN JORDAN, DAMIAN SAWYER, AND VERNETT SHAW a.k.a. RICHARD SHAW, on or about the 7th day of February, 2002, in the County of New Castle, State of Delaware, did possess with intent to use drug paraphernalia to **store, weigh and/or inject** into the human body a controlled substance in violation of Chapter 47, Title 16 of the Delaware Code of 1974, as amended.

COUNT IX. A FELONY

#N [02-02-2271]

POSSESSION OF A FIREARM DURING THE COMMISSION OF A FELONY in violation of Title 11, Section 1447A of the Delaware Code of 1974, as amended.

DAMIAN SAWYER, on or about the 7th day of February, 2002, in the County of New Castle, State of Delaware, did knowingly possess a firearm during the commission of Trafficking in Cociane [*sic*] and/or Possession With Intent to Deliver Cocaine andlor Possession wtrh Intent to Deliver Marijuana and/or Maintaining a Dwelling for Keeping Controlled Substances.

A TRUE BILL

/s/ ILLEGIBLE
(FOREPERSON)

/s/ M. JANE BRADY
ATTORNEY GENERAL

/s/ ILLEGIBLE
DEPUTY ATTORNEY GENERAL